spective except with respect to corporations filing under the securities acts for the first time.

The amendment adopted today clarifies the inconsistency between the provision in the item and the explanation of this provision. Amended Item 1(b)(2) provides that line of business data for fiscal years beginning before December 16, 1976, may be presented in lieu of segment information provided the line of business data had been included in a document filed with the Commission.

That is, the industry segment reporting requirements are prospective with respect to all corporations which are required to file reports under the Exchange Act. Nevertheless, the Commission believes that information about the performance of the various business activities of a corporation during a 5-year period is useful to investors. Therefore, such corporations are required to present line of business data for the balance of the 5-year period for those fiscal years beginning before December 16, 1976, for which segment data is not furnished.

In addition, the title to Part 229 of the Code of Federal Regulations is amended to add the words "Regulation S-K."

AMENDMENTS

The text of the amendments is set forth below:

1. The title of Part 229 of 17 CFR Chapter II is amended to add the words "Regulation S-K."

2. Item 1(b)(2) of Regulation S-K is amended as follows:

§ 229.20 Information required in document.

* * * * *

(b) * * *

(2) *Information as to lines of business.* For fiscal years beginning before December 16, 1976, the revenue, income, and any necessary explanatory information relating to lines of business included by the registrant in a document filed with the Commission may be furnished in lieu of the industry segment information for such years. The lack of comparability of the historical line of business information with the industry segment information shall be explained.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 121, 155 (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78*l*(d), 78w(a)).)

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments to Regulation S-K are adopted pursuant to sections 6, 7, 8, 10, and 19(a) of the Securities Act and sections 12, 13, 14, 15(d), and 23(a) of the Exchange Act, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has concluded that the amendment will have no impact on competition.

Inasmuch as these amendments are essentially technical in nature and are intended to relieve a restriction in a narrow area, the Commission, as authorized by 5 U.S.C. 553 (b) and (d) of the Administrative Procedure Act, for good cause finds that notice and public comment thereon is unnecessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1978.

[FR Doc. 78-6261 Filed 3-8-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 859-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: This final rulemaking amends the Emergency Episode Plan portion of the Commonwealth of Virginia's Regulations for the Control and Abatement of Air Pollution by revising the concentration levels for photochemical oxidants at which the Alert and Emergency Stages are declared. These regulations are also amended by providing an additional Health Advisory Stage for State Region 7 (the Virginia portion of the National Capital Interstate Air Quality Control Region).

EFFECTIVE DATE: April 10, 1978.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pa. 19106, ATTN: Mr. Harold Frankford.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street State Office Building, Richmond, Va. 23219, ATTN: Mr. John Daniel, Jr.

Public Information Reference Unit, Room 2922-EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Harold Frankford, 215-597-8392.

SUPPLEMENTARY INFORMATION: On January 29, 1976 and March 11, 1977, the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Emergency Episode Plan portion of the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as revisions of the Virginia State Implementation Plan for the attainment and maintenance of National Ambient Air Quality Standards. The nature of the changes to Part VII of the Virginia Regulations is summarized as follows:

(a) Section 7.02(b)(2)—A Health Advisory Stage becomes effective only in State Region 7 [the Virginia Portion of the National Capital Interstate Air Quality Control Region (AQCR)]. The Health Advisory Stage in State Region 7 can be declared when the one hour photochemical oxidant level at any monitor in the region reaches 200 micrograms per cubic meter ($\mu g/m^3$), or the equivalent measure in volume of 0.100 parts per million (ppm).

(b) Section 7.02(b)(3)(ii) [Effective Statewide]—An Alert Stage for photochemical oxidants will be declared in any State air quality control region when the one hour average photochemical oxidant level at any monitor in the region reaches 400 $\mu g/m^3$ or the equivalent measure of 0.200 ppm. The prior SIP requirement was 0.200 $\mu g/m^3$, equivalent to 0.100 ppm.

(c) Section 7.02(b)(5)(ii)—An Emergency Stage will be declared when any monitor in a State air quality control region reaches or exceeds a one hour average photochemical oxidant level of 1000 $\mu g/m^3$, equivalent to 0.500 ppm. The former requirement was 1200 $\mu g/m^3$ equivalent to 0.600 ppm.

The reasons for the changes are summarized as follows:

1. Changes of the photochemical oxidant levels for the Alert and Emergency Stages were amended to conform with similar changes instituted by EPA in Appendix L of 40 CFR Part 51 (40 FR 36333, August 20, 1975).

2. The addition of a Health Advisory Stage in State Region 7 conforms with actions taken by other jurisdictions comprising the National Capital Interstate AQCR during periods when oxidant levels reach 200 $\mu g/m^3$, equivalent to 0.100 ppm.

The Commonwealth submitted proof that hearings regarding the statewide changes to the Alert and Emergency Stages of the episode plan were held simultaneously on July 22, 1976 in Abingdon, Radford, Lynchburg, Fredericksburg, Richmond, Virginia Beach and Falls Church. On January 17. 1977, hearings regarding the changes to the Alert Stage and Advisory Stage levels in State Region 7 were held in Fairfax. These hearings were held in accordance with the requirements of 40 CFR section 51.4.

On May 4, 1976 (41 FR 18431) and August 1, 1977 (42 FR 38920), the Regional Administrator announced receipt of these amendments, proposed them as revisions of the Virginia SIP, and provided for 30 day public comments following publication in the FEDERAL REGISTER. During these public comment periods, no comments were received.

The Administrator's decision to approve the amendments to the Virginia Air Pollution Episode Plan is based on the logic of having uniform Alert Stage and Emergency Stage photochemical oxidant levels throughout the Commonwealth of Virginia, while still maintaining a Health Advisory Stage in State Region 7 that is consistent with the oxidant levels of other jurisdictions in the National Capital Interstate AQCR. Additionally, these changes of the Virginia Episode Plan meet the administrative requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

In view of the above evaluation, the Administrator approves the amendments to Part VII, sections 7.01(b), 7.02(b)(2), 7.02(b)(3)(ii), 7.02(b)(5)(ii) and 7.02(d) of the Virginia Regulations for the Control and Abatement of Air Pollution as revisions of the Virginia State Implementation Plan, effective April 10, 1978. Concurrently, 40 CFR section 52.2420 (Identification of Plan) is amended to incorporate these amendments into the federally-approved Virginia SIP.

At the present time, the Administrator is currently reviewing other substantive and administrative changes to Part VII of Virginia's air pollution control regulations. The SIP revisions being approved by EPA in this notice of final rulemaking only involve the photochemical oxidant levels (revised statewide) at which the Alert and Emergency Stages are declared, the addition of the Health Advisory Stage in State Region 7 and other administrative changes to sections 7.01 and 7.02 that directly refer to these amendments. The Administrator will make a final determination on the other changes to Part VII in a subsequent notice of final rulemaking.

(Authority: 42 U.S.C. 7401 et seq.)

Dated: March 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Title 40 of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, paragraphs (c)(17) and (c)(18) are added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified

* * *

(17) Amendment to section 7.02 (Episode Determination) [former §§ 6.01(b), 6.701(b)] of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on January 29, 1976, by the Secretary of Commerce and Resources.

(18) Amendment to sections 7.01 (General) [former § 6.700] and 7.02 (Episode Determination) [former § 6.701(b)] of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on March 11, 1977, by the Secretary of Commerce and Resources.

[FR Doc. 78-6213 Filed 3-8-78; 8:45 am]

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-28; Notice 5]

PART 567—CERTIFICATION

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

Certification of Multistage Vehicles

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment specifies the manner in which intermediate stage manufacturers of trucks must certify compliance with Federal motor vehicle safety standards. Some vehicles are constructed in three or more separate stages. Current regulations require only that the first and final manufacturers certify compliance to the degree that their work affects the vehicle. This amendment includes the "intermediate stage" manufacturer in the certification scheme and completes revisions of the regulations required by *Rex Chainbelt* v. *Brinegar*, 511 F. 2d 1215 (7th Cir. 1975).

EFFECTIVE DATE: July 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Fay, Engineering Systems Staff, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2817.

SUPPLEMENTARY INFORMATION: This notice amends 49 CFR Part 567, *Certification*, to add a labeling requirement for intermediate manufacturers who perform work on chassis-cabs. Conforming amendments to 49 CFR Part 568, "Vehicles Manufactured in Two or More Stages," are also made.

On July 25, 1977, the NHTSA published in the FEDERAL REGISTER (42 FR 37831) a notice proposing to amend the agency's certification regulations by adding certification responsibilities for intermediate manufacturers. That action was responsive to the decision in *Rex Chainbelt*. Currently, intermediate manufacturers are the only major manufacturers in the chain of multistage manufacturing without certification responsibilities. To complete the certification scheme, the agency proposed to require certification by intermediate manufcturers which would indicate that such manufacturer had complied with all of the safety standards applicable to his manufacturing operation. A complete explanation of the intermediate manufacturer's certification responsibilities was printed in the notice proposing the amendment and will not be reprinted here.

No comments were received in response to the notice of proposed rulemaking. Accordingly, the agency adopts, as final, the proposal as it was issued. The agency has reviewed the costs of this regulation and concludes that they are the minimum necessary for compliance with the *Rex Chainbelt* decision.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended as follows:

1. In Part 567, *Certification*, § 567.5 is revised by adding a new paragraph (b) and amending paragraphs (c)(7)(i) and (c)(7)(ii) to read:

§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

* * * * *

(b) Except as provided in paragraphs (e) and (f) of this section, each intermediate manufacturer of a vehicle manufactured in two or more stages shall affix a label, in the location and form specified in § 567.4, to each chassis-cab respecting which he is required by § 568.5 to furnish an addendum to the incomplete vehicle document described in § 568.4. However, this paragraph applies only to chassis-cabs that have been certified by a chassis-cab manufacturer in accordance with paragraph (a) of this section.

(1) (i) "With respect to Standard Nos. ———, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(2) or (b)(2) of this section.

(ii) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. ———." The statement shall be completed by inserting the numbers of the other standards to which the chassis-cab conforms, excluding those standards respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(1), (b)(1)(A), or this section.

(2) "This vehicle will conform to Standard Nos. ——— if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the standards conformity to which is substantially affected by both the design of the chassis-cab (as modified by the intermediate manufacturer) and the manner in which the vehicle is completed.

(3) "Conformity to Standard Nos. ——— is no longer substantially affected by the design of this chassis-cab." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(1), (a)(2), (b)(1)(i), (b)(1)(B), or (b)(2) of this section.

(4) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR BY".

(5) Month and year in which the intermediate manufacturer performed his last manufacturing operation on the chassis-cab. This may be spelled out, as "JUNE 1970", or expressed as numerals, as "6/70". No preface is required.

(c) * * *

(7) The following statements, as appropriate. Statements (i) and (ii) shall be made only for vehicles that were originally delivered by an incomplete vehicle manufacturer or an intermediate manufacturer as a chassis-cab.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. ——— has not been affected by final-stage manufacture." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section. This statement may be omitted at the discretion of the final-state manufacturer.

(ii) "With respect to Standard Nos. ———, the vehicle has been completed in accordance with the prior manufacturers' instructions." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. This statement may be omitted at the discretion of the final stage manufacturer.

* * * * *

2. In Part 568, *Vehicles Manufactured in Two or More States*, § 568.5 is amended to read:

§ 568.5 Requirements for intermediate manufacturers.

(a) Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4 in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

(b) Each intermediate manufacturer shall, in accordance with § 567.5 of this chapter, affix a label to each chassis-cab respecting which he is required by paragraph (a) above to furnish an addendum to the document required by § 568.4.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5914 Filed 3-8-78; 8:45 am]

[4910-59]

[Docket No. 78-02; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Definitions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY STATEMENT: This notice is an interpretative amendment of the agency's definition of "unloaded vehicle weight." It grants petitions from several manufacturers asking the agency to amend the definition of this term to reflect an existing agency interpretation concerning the definition.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C., 202-426-2242.

SUPPLEMENTARY INFORMATION: This notice amends Title 49, Code of Federal Regulations, Part 571.3 by clarifying the meaning of "unloaded vehicle weight." "Unloaded vehicle weight" is currently defined as "the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo or occupants."

In July 1976, the NHTSA issued a letter of interpretation in response to a request from the Jeep Corp. concerning the definition of "unloaded vehicle weight." In that interpretation, the agency stated that the unloaded weight of a vehicle does not include the weight of those accessories that are ordinarily removed from a vehicle when they are not in use.

The Chrysler Corp. and the Truck Body and Equipment Association (TBEA) subsequently petitioned the NHTSA to amend the definition of "unloaded vehicle weight" to reflect the existing agency interpretation. Further, TBEA and Chrysler requested an even broader classification of the accessories whose weight would not be included in the computation of "unloaded vehicle weight." Chrysler and TBEA asked that the weight of accessories which are not normally removed from a vehicle when they are not in use also be excluded from the computation of "unloaded vehicle weight." The agency granted the petitions to amend the definition to re-

flect the existing agency interpretation but denied the portions of both petitions requesting an extension of that interpretation.

The agency has interpreted "unloaded vehicle weight" as excluding the weight of accessories ordinarily removed from a vehicle when they are not in use in order to approximate more closely the actual unloaded weight of a vehicle. The type of equipment or accessories not to be included in computing "unloaded vehicle weight" includes: Snow plows, spreaders, and tow bars, among others.

§ 571.3 [Amended]

To codify the existing agency interpretation, the definition of "unloaded vehicle weight" in 49 CFR 571.3, *Definitions* is hereby amended to read as follows:

* * * * *

"Unloaded vehicle weight" means the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo, occupants, or accessories that are ordinarily removed from the vehicle when they are not in use.

Since this amendment is interpretative in nature, and reflects current understanding and practice, it is found for good cause that notice and public procedures thereon are unnecessary, and that an immediate effective date is in the public interest.

The principal author of this notice is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 109, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5912 Filed 3-8-78; 8:45 am]

[4910-59]

[Docket No. 78-06; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Definitions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends the general definitions section of Part 571 (49 CFR Part 571.3) by adding the definitions of "speed attainable in 1 mile" and "speed attainable in 2 miles." These definitions are currently contained in several motor vehicle safety standards. Since the terms are used in the requirements of more than one standard, it is appropriate to define them in the general definitional section which applies to all safety standards in Part 571.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Kathleen DeMeter, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: Part 571.3 of Title 49, Code of Federal Regulations, contains definitions of terms used in the various motor vehicle safety standards. Many safety standards also contain their own definitional section which defines terms used only in the particular standard. When a term is used in more than a single standard, it is appropriate that its definition be relocated in the generally applicable Part 571.3 definitions section. This eliminates the need to republish the definition of a particular term in each standard in which the term is used.

The terms "speed attainable in 1 mile" and "speed attainable in 2 miles" are each defined in more than one safety standard. For the aforementioned reasons, this notice deletes the definitions of the terms from the standards in which they appear and adds them to § 571.3. Accordingly, 49 CFR Part 571 is amended as follows:

§ 571.3 [Amended]

1. Section 571.3 is amended by adding, after the definition of "service brake," the following two definitions:

"Speed attainable in 1 mile" means the speed attainable by accelerating at maximum rate from a standing start for 1 mile, on a level surface.

"Speed attainable in 2 miles" means the speed attainable by accelerating at a maximum rate from a standing start for 2 miles, on a level surface.

§ 571.105 [Amended]

2. Standard No. 105, Hydraulic brake systems (49 CFR 571.105), is amended by deleting from paragraph S4 the definition of "Speed attainable in 2 miles".

§ 571.108 [Amended]

3. Standard No. 108, Lamps, reflective devices, and associated equipment (49 CFR 571.108), is amended by deleting from paragraph S3 the definition of "Speed attainable in 2 miles."

§ 571.121 [Amended]

4. Standard No. 121, Air brake systems (49 CFR 571.121), is amended by deleting from paragraph S4 the definition of "Speed attainable in 2 miles."

5. Standard No. 122, Motorcycle brake systems (49 CFR 571.121), is amended by deleting from paragraph S4 the definition of "Speed attainable in 1 mile."

(Secs. 102, 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on February 28, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5913 Filed 3-8-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1305]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1305.

SUMMARY: The Union Pacific has serious shortages or boxcars suitable for transporting shipments of lumber. It owns a group of mechanical refrigerator cars with inoperative refrigeration devices which are otherwise suitable for use. Certain shippers of lumber have agreed to use these cars for transporting their shipments provided sufficient cars are furnished to enable the minimum-weight requirements of the tariff can be secured. Service Order No. 1305 authorizes the Union Pacific to substitute two of these refrigerator cars for each boxcar ordered, subject to the minimum weight applicable to the car ordered.

DATES: Effective 12:01 a.m., March 7, 1978. Expires 11:59 p.m., April 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 6th day of March 1978.

There is an acute shortage of plain boxcars for loading shipments of lumber and lumber products on the lines of the Union Pacific Railroad Co. (UP). The UP has a surplus of mechanical refrigerator cars with inoperative refrigerating devices which are

suitable for transporting lumber and lumber products if the use of two such cars for each boxcar ordered is permitted.

The economic loss suffered by shippers dependent on the UP for their car supplies can be alleviated by the substitution of sufficient smaller cars for the larger cars ordered to transport the shipments offered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1305 Service Order No. 1305.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper the Union Pacific Railroad Co. (UP) may substitute two mechanical refrigerator cars bearing reporting marks UPRX for each boxcar ordered for shipments of lumber or lumber products.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by paragraph (a) of this section shall be the rates and minimum weights applicable to the larger cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this section shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Boxcar Ordered, UPRX (——) and UPRX (——) furnished authority ICC Service Order No. 1305."

(e) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., March 7, 1978.

(j) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-6259 Filed 3-8-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Reclassification of the Gray Wolf in the United States and Mexico, with Determination of Critical Habitat in Michigan and Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service issues a final rulemaking which provides for the reclassification of the gray wolf in the United States and Mexico, and for the determination of critical habitat for species of gray wolf in Michigan and Minnesota. The reclassification is considered to accurately express the current status of the gray wolf, based solely on an evaluation of the best available biological data. The special regulations being established in Minnesota are deemed necessary and advisable to provide for the future well-being of the species. Although an increased legal take of wolves committing depredations on domestic animals will be authorized, this take is intended to ameliorate present conflict between the wolf and human interests. Such conflict would hinder conservation efforts and thus work against the long-term welfare of the wolf. A legal take is considered the only practical means by which depredations can be handled and the current problems relieved.

DATE: This rule becomes effective on April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director for Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION: Background: The gray wolf formerly occurred in most of the conterminous United States and Mexico. Because of widespread habitat destruction and human persecution, the species now occupies only a small part of its original range in these regions. Four subspecies of the gray wolf have been listed as Endangered pursuant to the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.: the Mexican wolf (*Canis lupus baileyi*), of Mexico and the southwestern United States; the northern Rocky Mountain wolf (*C. l. irremotus*), possibly still found in parts of Wyoming, Montana, and Idaho; the eastern timber wolf (*C. l. lycaon*), now restricted to the northern Great Lakes region; and the Texas gray wolf (*C. l. monstrabilis*) formerly of Texas and Mexico and now probably extinct. This listing arrangement has not been satisfactory because the taxonomy of wolves is out of date, wolves may wander outside of recognized subspecific boundaries, and some wolves from unlisted subspecies may occur in certain parts of the lower 48 States. In any case, the Service wishes to recognize that the entire species *Canis lupus* is Endangered or Threatened to the south of Canada, and considers that this matter can be handled most conveniently by listing only the species name.

This rulemaking also will clarify the status of wolves within the designated range of *C. l. irremotus* and *C. l. lycaon* in Canada. These two subspecies were originally listed as Endangered at a time when there were two separate lists of Endangered species, one for foreign wildlife and one for native wildlife. Both subspecies were added only to the latter list, as published in the Federal Register of January 4, 1974 (39 FR 1171-1176), and thus for legal purposes were considered to be Endangered only within the United States. Subsequently, the two lists were combined into one List of Endangered and Threatened Wildlife,

covering both native and foreign species, as published on July 14, 1977 (42 FR 36420-36431). Examination of this list may give the impression that *C. l. irremotus* and *C. l. lycaon* are considered Endangered over their entire ranges, including Canadian areas. This rulemaking clearly indicates that the gray wolf is listed everywhere to the south of the Canadian border, but nowhere to the north.

Most current interest in the gray wolf centers on the eastern timber wolf, especially in Minnesota. As delineated by recent systematic sources, the original range of the subspecies *C. l. lycaon* included most of the region from Georgia to Maine, and between the Atlantic and the Great Plains. At present, however, the only substantial gray wolf population remaining in this region is in northern Minnesota. There also is a group on Isle Royale in Lake Superior, and possibly a few scattered individuals in northern Michigan and Wisconsin.

The eastern timber wolf was listed as Endangered in 1967, at a time when no Threatened category had been established by Federal legislation. Over the last decade the wolf continued to survive in northern Minnesota, and it became apparent that the species was not in immediate danger of being extirpated in the State. Numbers have fluctuated, but seem to have increased in some areas, and there has been an overall increase in range. Some wolves have entered areas with relatively extensive human settlement and made depredations on domestic animals. Many people have expressed concern about such depredations, and about the possibility that wolves could be detrimental to some deer herds in Minnesota, which have been undergoing a general decline because of several factors including habitat deterioration.

In a letter dated October 4, 1974, the Minnesota Department of Natural Resources petitioned the Service to exclude Minnesota from the range over which the eastern timber wolf is considered Endangered. In response, the Service issued a notice of review in the FEDERAL REGISTER of November 21, 1974 (39 FR 40877). Extensive public comment was received on this notice, mainly opposition from persons who were concerned that removal of the wolf from Endangered status would subject the species to excessive killing by man. Some support for delisting the wolf came from persons who felt that the continued total protection of the Endangered classification would result in serious depredations by the wolf on livestock and game.

Further measures by the Service were withheld pending formulation of recommendations by the Eastern Timber Wolf Recovery Team. This team is one of many appointed by the Service to develop Recovery Plans for Endangered and Threatened species. On June 9, 1977 (42 FR 29527-29533), the Service issued a proposed rulemaking on the gray wolf; this final rulemaking does not differ substantially from the proposal.

SUMMARY OF COMMENTS

In response to the proposed rulemaking of June 9, 1977, the Governments of the following States sent letters expressing support or no opposition: Arkansas, Georgia, Illinois, Louisiana, Maryland, Maine, Michigan, Montana, New Mexico, New York, Oklahoma, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin, and Wyoming. In addition, responses, but no comments, were received from the Governments of Alabama, California, Connecticut, Delaware, Florida, Missouri, and North Carolina.

The Governor of Minnesota stated that the wolf in Minnesota should be classified neither as Endangered nor Threatened. He indicated that the proposal did not give sufficient reason for maintaining the species as Threatened, and that the regulations would not allow for adequate control of depredating wolves. The Service recognizes that there is disagreement regarding the application of the Threatened category, but now considers that the rationale given in the proposal, and repeated below, does justify this classification. The Service also considers that the proposed control provisions are all that can be supported on the basis of currently available data. The situation, however, will be closely monitored, and any modifications that seem warranted will be proposed.

The Governor also made the following recommendations (assuming that the wolf was classified as Threatened in Minnesota): Critical Habitat should be restricted to the northeastern part of the State; zone 3 "should not be designated as a sanctuary", because much of it is peat bog and thus poor deer habitat, and because it is surrounded by livestock country; no taking of wolves should be allowed in zone 2; the boundaries of zones 1 and 2 should be expressed in simpler language so that citizens would know the location of the "sanctuary"; zones 4 and 5 should be combined into one zone; and reporting of the taking of depredating wolves should be done quarterly, rather than within 5 days. In response, the Service first wants to make it clear that neither the proposed nor final regulations use the term "sanctuary". The regulations actually will reduce the area of total protection for the wolf in Minnesota from the entire State to only zone 1 in the northeastern corner. In all other parts of the State, depredating wolves may be taken under the conditions set forth in the regulations. The Critical Habitat zones being established are not the same as a "sanctuary", and apply only to actions of Federal agencies affecting habitat conditions. Except for zone 1, depredating wolves may be taken within Critical Habitat. The Service considers that both zones 2 and 3, as well as the area surrounding zone 3, should be open to such taking. The Critical Habitat boundaries were recommended by authorities who have many years of field experience with wolves in this region, and the Service thinks these boundaries, except for the slight modifications indicated, should be the same as proposed. The boundaries will apply only to evaluation of Federal actions, and have nothing to do with any restriction of the movement or activity of private citizens of State agencies. Although all the same regulations will apply to zones 4 and 5, at least for a while, the Service prefers to maintain them as separate zones for informational purposes. The Service also prefers to keep the reporting period to 5 days, because of the importance of closely monitoring the rate, location, and circumstances of the taking of wolves.

The Secretary of State of Minnesota sent a copy of a resolution passed by the State Legislature and approved by the Governor. The resolution called for complete declassification of the wolf in Minnesota, and cited the following reasons: the wolf population had reached carrying capacity in many areas and was expanding into areas "not heretofore inhabited"; hardship was resulting from wolf depredations; the State had adequate resources and authority to effectively manage the wolf; and the Legislature believed it best for the State to have exclusive control of its resident wolf population. Only the first of these reasons is relevant to the factors that may legally be considered in determing the classification of a species under the Endangered Species Act. And, while it is recognized that the wolf may recently have increased its range in Minnesota, it is not entirely correct to say that the involved areas were "not heretofore inhabited", because at one time the wolf occupied the entire State. It is also probable that the wolf population has reached carrying capcacity in some parts of Minnesota, but these areas represent a comparatively small portion of the original range of the species, and population density alone will not assure long-term welfare. The depredation problem is being dealth with under this rulemaking.

Expressions of objection to the proposal also were received from a number of other parties in Minnesota including the Beltrami County Board of Commissioners, the Itasca County

Board of Commissioners, the City of Littlefork, the City of International Falls, the Sheriff of Roseau County, and State Senator Bob Lessard. In addition, State Representative Irv Anderson sent a detailed statement commenting negatively on the proposal. Much of this statement is devoted to the background of the situation, and to comparison with other Federal activities. Mr. Anderson indicated even a Threatened classification was unjustifiable for the wolf in Minnesota, although he went on to mention a potential conflict between the species and economic development in one area, and to suggest the possibility of the wolf becoming Endangered because of human attitudes. In any event, the Service stands by its original reasoning, as repeated below, for considering the wolf to be a Threatened species in Minnesota. Mr. Anderson also stated that the proposed special regulations were inadequate, because taking of wolves would not be allowed until after depredations had occurred, and then only by government agents. In practice, however, most taking of problem wolves has always been done by trappers who respond to complaints. Under the rulemaking, both State and Federal agents would be available for such action. It might be added here, for the information of all parties who recommended total declassification or more liberal taking regulations in Minnesota, that the Service could not take such measures, even if it wanted to, without first making an entirely new proposal and allowing a new period of public comment.

The U.S. Forest Service supported the reclassification and Critical Habitat designation, but requested assurance that biological subspecies would continue to be maintained and dealt with as separate entities. The Fish and Wildlife Service can give this assurance. The Forest Service also made a number of management recommendations, which will be considered at appropriate times.

The National Park Service also favored continued recognition of the different wolf subspecies, and in general supported the proposal. The Park Service, however, recommended enlargement of the Critical Habitat designation in Minnesota to include all of Voyageurs National Park and some adjacent lands. Recent studies have indicated that several packs of wolves in the Park depend partly on habitat not included in the proposal. The Fish and Wildlife Service has decided to follow this recommendation, and the delineation of zones given below reflects the changes called for by the Park Service. Approximately 13 square miles in Voyageurs National Park, and about 13 square miles outside of the Park have been added to zone 1. A reduction of about eight square miles in the size of zone 2 also has been made, based on new information provided by the Region 3 Office of the Fish and Wildlife Service, in Twin Cities, Minn.

Representative Abner J. Mikva of Illinois opposed the proposal, stating that the wolf should continue to be listed as Endangered in Minnesota, and that the Service should not give in to pressure for reclassification from a small interest group. The Service, however, does not consider that it is giving in, but rather that an accurate classification and proper regulations are being established.

The Defenders of Wildlife sent a detailed statement on the proposal, which it said was endorsed by three other conservation organizations: Fund for Animals, The Humane Society of the United States, and Let Live. Most of the statement consisted of various recommendations, which the Service will consider, but which are not directly related to preparation of this rulemaking. In addition, the statement expressed opposition to the separation of the wolf in Minnesota as a species for legal purposes, and warned that such a measure might set a precedent for pressure to make exceptions for other species in particular political areas. The Service understands this point, but, in the case of the wolf, considers that there is adequate legal basis for the rulemaking in section 3(11) of the Endangered Species Act; and sufficient biological basis in the long-established and striking difference between the status of the wolf in Minnesota and all other areas south of the Canadian border.

The Environmental Defense Fund "cautiously" supported the proposal, but issued a number of warnings of possible problems, which the Service will consider. The Service does strongly disagree with the contention that the reclassification proposal was based primarily on pressure from agricultural and political interests, rather than biological factors. The Service considers that the status of the wolf in Minnesota is accurately expressed by a Threatened classification, and that had this category been available in 1967 the eastern timber wolf probably would have been so listed. Also, the special regulations allowing some take of depredating wolves should not be viewed as a vindication of past illegal killing. These regulations express recognition of the need to deal with an active current problem. The Service will enforce these regulations to the limit of its ability, and will not tolerate any taking of wolves beyond that authorized.

The Fur and Trapping Ethics organization indicated opposition to reclassification in Minnesota, and suggested that instead of allowing the take of depredating wolves by special regulation, the Service should permit such take under the provisions of section 10(a) of the Endangered Species Act. That section authorizes the issuance of permits to do anything otherwise prohibited by the Act, in order to enhance the survival of an Endangered species. Since the take of a few depredating wolves might moderate antagonism toward the entire species, it could be argued that such measures would enhance the survival of the species. The Service, however, considers a Threatened classification to be biologically justifiable in Minnesota, and under this classification a special regulation can be applied.

The Help Our Wolves Live organization made a number of recommendations, some of which were already expressed in the proposal. This group suggested that only Federal trappers be allowed to take depredating wolves in Minnesota, but at present the Service sees no justification for prohibiting participation by personnel of the Minnesota Department of Natural Resources.

The following organizations within the Monitor Consortium expressed opposition to reclassification in Minnesota: The International Primate Protection League; Fund for Animals, Inc.; Let Live; Audubon Naturalist Society of the Central Atlantic States; Committee for the Preservation of the Tule Elk; International Fund for Animal Welfare—U.S.A.; American Littoral Society; American Littoral Society, Chesapeake Chapter; Environmental Policy Center; Society for Animal Protective Legislation; Washington Humane Society; and Friends of the Earth. These organizations thought that the Minnesota wolf population should not be separated from that of the rest of the lower United States, but should be viewed as a tiny and Endangered remnant of a former wide-ranging species. The Service can understand this position, but considers that no matter how the Minnesota population is viewed, it, by itself, is more properly classified as Threatened. These respondents also suggested that by allowing take of depredating wolves, the Service would be giving in to poachers who are killing wolves illegally. Such is not the case; the take is being authorized because it is the most practical means of dealing with a current problem, and will not be detrimental to the overall Minnesota wolf population. Another comment was that the Critical Habitat designation should be larger, but the Service considers that the proposed zones, as based on the recommendations of experienced field personnel, are all that can be justified by presently available data.

The National Audubon Society and the National Wildlife Federation supported the proposed rulemaking, but

both suggested that wording of proposed § 17.40(d)(2)(B)(4) be revised to make it clear that wolves would be taken only in response to specific, documented or confirmed cases of depredation. The Service considers that present language, authorizing take only by Government agents, and requiring that all taking be reported, is sufficient to provide all legal assurances that are necessary.

The National Parks and Conservation Association recommended that taking of depredating wolves be allowed only in zones 4 and 5 of Minnesota, and not in zones 2 and 3. Any take in the latter two zones, however, would be very limited, since little domestic stock is present, and the Service considers that such taking would have a negligible effect on wolf populations. This Association also indicated that the reclassification was based mainly on social factors, and could not be justified by biological data. The Service disagrees; the reclassification will reflect the actual biological status of the wolf in Minnesota.

The New York Zoological Society and the Zoological Society of San Diego expressed concern that the Endangered classification of all wolves in the lower 48 States (except Minnesota) would apply to any individual of the species *Canis lupus*, even to those in zoos. This rulemaking, however, like most rulemakings of this kind, will apply only to wild animals and to captives originating in the wild population that is being listed. Captive wolves would not be affected, unless their origin was within the wild population found to the south of the Canadian border.

The North American Wolf Society supported the reclassification of the wolf in Minnesota and the designation of Critical Habitat, but questioned the elimination of subspecific differentiation in listings, suggesting that such elimination could jeopardize efforts to locate and maintain stocks of the various subspecies. The Service, however, can offer the firmest assurance that it will continue to recognize valid biological subspecies for purposes of its research and conservation programs.

The Safari Club International supported the Endangered classification for all wolves south of Canada, except in Minnesota, but opposed any listing, regulations, or Critical Habitat designation in Minnesota. It was stated that the Service rejected the recommendations of the Eastern Timber Wolf Recovery Team, but actually most recommendations were accepted, and the Team's advice will continue to be carefully considered in the future. The Safari Club suggested that any wolf which wandered into the United States from Canada, and which was not from a currently listed subspecies, should not be considered Endangered. It is the intention of the Service, however, to list any naturally present wolf to the south of Canada (except Minnesota) as Endangered.

The Sierra Club indicated opposition to reclassification in Minnesota, and made a number of comments along the same lines as some of those already covered above. The Sierra Club also recommended revision of proposed § 17.40(d)(2)(i)(a) to prevent abuse of the provision, but the proposed wording actually is identical to that covering Endangered species in existing 50 CFR § 17.21(c)(2). In addition, the statement was made that control programs in zone 4 could break pack structure, allow hybridization with coyotes, and thus jeopardize the overall wolf population. Actually, however, the wolf in Minnesota was taken intensively for many years prior to protection, and no specimen was ever collected that suggested the occurrence of hybridization.

The Wilderness Society also opposed the reclassification, again mostly on the basis of the same points discussed above. The Society suggested a number of management alternatives to taking of depredating wolves, which the Service will consider, but which can not be used as immediate solutions to the problem at hand. In answer to questions asked, it is likely that taking will include the use of steel traps and may be done by agents specially hired for the purpose, but the live-capture and transfer of wolves certainly will remain a viable option.

In addition to the above, the following organizations supported the proposed rulemaking: Minnesota Conservation Federation, North American Wildlife Park Foundation, Tahoma Audubon Society, and Wildlife Management Institute. The following other organizations opposed the proposal: Interior Wildlife Association of Alaska, Littlefork Gun Club, Minnesota Chapter of the Safari Club International, National Association for Humane Legislation, Texas Committee on Natural Resources, United Animal Defender, and Wildlife Unlimited.

In addition to the above, there was a heavy response to the proposal from private citizens. A breakdown of the responses shows the following approximate figures: 637 persons sent individual comments, and 380 signed petitions in support of maintaining the Endangered classification of the wolf in Minnesota; 84 persons sent individual comments, 28 signed petitions, and 214 signed form letters supporting total declassification in Minnesota; 99 persons sent individual comments, and 214 signed form letters expressing opposition to what they termed a "sanctuary" in Minnesota; 129 persons signed a form letter suggesting that the proposed depredation control measures were inadequate; 7 persons sent comments supporting the proposal; and 9 persons sent information without actually expressing a viewpoint. Practically all of the views expressed in these comments by citizens have been covered above in the discussion of comments by organizations and governmental bodies.

Summary of Factors Affecting the Species

As defined in section 3 of the Act, the term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. For purposes of this rulemaking, the gray wolf (*Canis lupus*) group in Mexico and the 48 conterminous States of the United States, other than Minnesota, is being considered as one "species", and the gray wolf group in Minnesota is being considered as another "species".

Section 4(a) of the Act states that the Secretary of the Interior may determine a "species" to be Endangered or Threatened because of any of five factors. These factors, and their application to the gray wolf in Minnesota, and to the gray wolf in the other 48 conterminous States of the United States and in Mexico, are listed below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The gray wolf once had a range that included most of Mexico and the 48 conterminous States of the United States. The species now occurs in only a small fraction of this range, and is very rare in most places where it does exist. Perhaps fewer than 200 wolves survive in Mexico, and these are widely scattered and subject to intensive human pressure. In the southwestern United States the wolf probably is present only as an occasional wanderer near the Mexican border. In the northwestern United States the wolf is restricted mainly to remote parts of the Rocky Mountains, though some individuals may wander from this region, or from Canada, into other areas. In the eastern half of the United States the gray wolf has been totally eliminated by man, except in the upper Great Lakes region. Here, there is a group on Isle Royale, and possibly a few in northern Michigan and Wisconsin. The only major population of the gray wolf remaining anywhere in the 48 conterminous States is in northern Minnesota. This population, while small compared to the original numbers and range of the gray wolf in the lower 48 States, has not itself undergone a significant decline since about 1900. Indeed, within the last decade there appears to have been a numerical increase in some areas, and an overall range increase. The relatively remote primary habitat of the population,

which is composed in large part of protected public lands, along with the continuity of the population with other populations in Canada, has contributed to the survival of the wolf in Minnesota. There appear to be no serious problems that could result in the immediate extirpation of the species in this area, and thus the population would not seem to be Endangered as defined by the Act. On the other hand, the Minnesota population does represent the last significant element of a species that once occupied a vastly larger range in the lower 48 States, and long-term trends may be working against the wolf. To quote the Recovery Plan, "Future circumstances are unpredictable and those that now exist could change drastically. For example, widespread industrialization, mineral exploitation, and general development could threaten much of the wolf's remaining range, making regulation increasingly significant to the populations left. Additional roads, railroads, power lines, mines and tourist facilities could further carve up much of northern Minnesota. This would disrupt the natural repopulation of depleted areas by wolves and promote higher human densities which would compete with wolves for their wild prey." Moreover, in recent years there has been a decline in deer, the main prey species, in parts of the primary range of the wolf. This decline has resulted primarily from forest maturation and severe winter weather. Wolf numbers have declined accordingly in some of these areas. In contrast, wolves have increased in their peripheral range where they are more likely to come into conflict with human interests and thus stimulate action against them. These various problems would seem to warrant the maintenance of a Threatened classification for the wolf in Minnesota.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Direct killing by man, including large-scale commercial and sport taking, has been the major direct factor in the decline of wolves in the conterminous United States and Mexico. Wolves still are regularly shot, especially when they appear in settled areas that are not part of their regular range. Illegal killing is a problem in Minnesota and other areas where the wolf still occurs.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—There still are some places in the lower 48 States, such as Washington and North Dakota, where wolves may occur and where they are not under Federal protection. Moreover, because of the confusing taxonomy of wolf subspecies, and because wolves may wander across recognized subspecific boundaries, difficult law enforcement problems may arise. In Minnesota, wolves are totally protected under the Act, but this total protection may actually be working against the species. By prohibiting the killing of wolves, even those that may be attacking livestock and pets, current regulations may be creating an adverse public attitude toward the whole species.

5. *Other natural or manmade factors affecting its continued existence.*—None in addition to those discussed above.

Interagency Cooperation

Section 7 of the Endangered Species Act of 1973 requires Federal agencies, and only Federal agencies, to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of Endangered or Threatened species, or adversely affect the Critical Habitat of such species. The Recovery Team has described zones 1, 2, and 3 in Minnesota, and Isle Royale National Park, Michigan, as "critical areas" of the wolf. These areas provide the space for normal growth and movement of established pack units and would supply sufficient food and cover for the assured survival of the species. The Service considers that these areas qualify as Critical Habitat, pursuant to Section 7, and that Federal agencies should evaluate their actions affecting these areas relative to the welfare of the wolf.

Effects of the Rulemaking

With respect to the gray wolf in the 48 conterminous States of the United States, except Minnesota, and in Mexico, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 will apply. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies. Permits for scientific purposes or for the enhancement of propagation or survival are available in accordance with 50 CFR 17.22. Economic hardship permits are available under 50 CFR 17.23. For practical purposes these measures already are in effect since nearly all wolves that regularly occur in the region in question are currently listed as Endangered. The rulemaking will extend Endangered status to those few wolves that may be in the region that are not already listed, and would simplify law enforcement and conservation measures.

With respect to the gray wolf in Minnesota, which is listed as Threatened, a special rule is promulgated which applies provisions similar to those of 50 CFR 17.31, and an additional provision for depredation control. The prohibitions of 50 CFR 17.31 are essentially the same as those for Endangered species, except that "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs." In accordance with 50 CFR 17.32, permits for Threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibitions, educational purposes, or special purposes consistent with the purposes of the Act.

The provisions for predator control state that wolves may be taken by authorized Federal or State employees in zones 2, 3, 4, and 5, if such wolves commit significant depredations on lawfully present domestic animals. Few, if any, of these wolves will be taken in zones 2 and 3 which have practically no livestock, and nearly all will be taken in zone 4. Essentially then, the wolf population in zones 1, 2, and 3 will not be affected by the depredation control activity. The population in zone 4 might be held below biological potential, but would continue to exist in reasonable numbers. The control of depredating wolves in zone 4 will reduce conflicts with human interests and should create a more favorable public attitude that would be of overall benefit to the wolf.

The effects of Critical Habitat determination involve Federal agencies. In accordance with section 7 of the Act, such agencies, and only such agencies, are required to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The designation of Critical habitat for the gray wolf in Minnesota, as delineated below, points out areas where this responsibility will apply. This will not automatically prohibit any particular actions, and it is likely that many kinds of Federal actions involving the areas in question would not be expected to be detrimental to the wolf. For more information, please consult the "Guidelines to Assist Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973," as prepared by the Fish and Wildlife Service and National Marine Fisheries Service.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service (202/343-7814).

REGULATIONS PROMULGATION

Accordingly, Part 17, Subparts B, D, and I, Title 50 of the Code of Federal Regulations, are amended as set forth below.

1. Section 17.11 is amended by deleting the Mexican wolf (*Canis lupus baileyi*), northern Rocky Mountain wolf (*Canis lupus irremotus*), eastern timber wolf (*Canis lupus lycaon*), and Texas gray wolf (*Canis lupus monstrabilis*) from the List of Endangered and Threatened Wildlife and Plants, and by adding the gray wolf (*Canis lupus*) to the List as indicated below:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Mammals:							
Wolf, gray	*Canis lupus*	United States (48 conterminous States, other than Minnesota), Mexico.	Arizona, Idaho, Michigan, Montana, New Mexico, North Dakota, Oregon, Texas, Washington, Wisconsin, Wyoming, Mexico.	Entire	E	1, 6, 13, 15, 35	N/A.
Do	do	Minnesota	Northern Minnesota	Entire	T	35	17.40(d).

2. Section 17.40 is amended by adding the following paragraph (d):

§ 17.40 Special rules—mammals.

* * * * *

(d) Gray wolf (*Canis lupus*) in Minnesota.—(1) *Zones.* For purposes of these regulations, the State of Minnesota is divided into the following five zones.

ZONE 1—4,488 SQUARE MILES

Beginning at the point of intersection of United States and Canadian boundaries in Section 22, Township 71 North, Range 22 West, in Rainy Lake, then proceeding along the west side of Sections 22, 27, and 34 in said Township and Sections 3, 10, 15, 22, 27 and 34 in Township 70 North, Range 22 West and Sections 3 and 10 in Township 69 North, Range 22 West; then east along the south boundaries of Sections 10, 11, and 12 in said Township; then south along the Koochiching and St. Louis counties line to Highway 53; thence southeasterly along State Highway 53 to the junction with County Route 765; thence easterly along County Route 765 to the junction with Kabetogama Lake in Ash River Bay; thence along the south boundary of Section 33 in Township 69 North, Range 19 West, to the junction with the Moose River; thence southeasterly along the Moose River to Moose Lake; thence along the western shore of Moose Lake to the river between Moose Lake and Long Lake; thence along the said river to Long Lake; thence along the east shore of Long Lake to the drainage on the southeast side of Long Lake in NE¼, Section 18, Township 67 North, Range 18 West; thence along the said drainage southeasterly and subsequently northeasterly to Marion Lake, the drainage being in Section 17 and 18, Township 67 North, Range 18 West; thence along the west shoreline of Marion Lake proceeding southeasterly to the Moose Creek; thence along Moose Creek to Flap Creek; thence southeasterly along Flap Creek to the Vermilion River; thence southerly along the Vermilion River to Vermilion Lake; thence along the Superior National Forest boundary in a southeasterly direction through Vermilion Lake passing these points: Oak Narrows, Muskrat Channel, South of Pine Island, to Hoodo Point and the junction with County Route 697; thence southeasterly on County Route 697 to the junction with State Highway 169; thence easterly along State Highway 169 to the junction with State Highway 1; thence easterly along State Highway 1 to the junction with the Erie Railroad tracks at Murphy City; thence easterly along the Erie Railroad tracks to the junction with Lake Superior at Taconite Harbor; thence northeasterly along the North Shore of Lake Superior to the Canadian Border; thence westerly along the Canadian Border to the point of beginning in Rainy Lake.

ZONE 2—1,856 SQUARE MILES

Beginning at the intersection of the Erie Mining Co. Railroad and State Highway 1 (Murphy City); thence southeasterly on State Highway 1 to the junction with County Road 4; thence southwesterly on County Road 4 to the State Snowmobile Trail (formerly the Alger-Smith Railroad); thence southwesterly to the intersection of the Old Railroad Grade and Reserve Mining Co. Railroad in Section 33 of Township 56 North, Range 9 West; thence northwesterly along the Railroad to Forest Road 107; thence westerly along Forest Road 107 to Forest Road 203; thence westerly along Forest Road 203 to the junction with County Route 2; thence in a northerly direction on County Route 2 to the junction with Forest Road 122; thence in a westerly direction along Forest Road 122 to the junction with the Duluth, Missabe and Iron Range Railroad; thence in a southwesterly direction along the said railroad tracks to the junction with County Route 14; thence in a northwesterly direction along County Route 14 to the junction with County Route 55; thence in a westerly direction along County Route 55 to the junction with County Route 44; thence in a southerly direction along County Route 44 to the junction with County Route 266; thence in a southeasterly direction along County Route 266 and subsequently in a westerly direction to the junction with County Road 44; thence in a northerly direction on County Road 44 to the junction with Township Road 2815; thence westerly along Township Road 2815 to Alden Lake; thence northwesterly across Alden Lake to the inlet of the Cloquet River; thence northerly along the Cloquet River to the junction with Carrol Trail-State Forestry Road; thence west along the Carrol Trail to the junction with County Route 4 and County Route 49; thence west along County Route 49 to the junction with the Duluth, Winnipeg and Pacific Railroad; thence in a northerly direction along said Railroad to the junction with the Whiteface River; thence in a northeasterly direction along the Whiteface River to the Whiteface Reservoir; thence along the western shore of the Whiteface Reservoir to the junction with County Route 340; thence north along County Route 340 to the junction with County Route 16; thence east along County Route 16 to the junction with County Route 346; thence in a northerly direction along County Route 346 to the junction with County Route 569; thence along County Route 569 to the junction with County Route 565; thence in a westerly direction along County Route 565 to the junction with County Route 110; thence in a westerly direction along County Route 110 to the junction with County Route 100; thence in a north and subsequent west direction along County Route 100 to the junction with State Highway 135; thence in a northerly di-

rection along State Highway 135 to the junction with State Highway 169 at Tower; thence in an easterly direction along the southern boundary of Zone 1 to the point of beginning of Zone 2 at the junction of the Erie Railroad Tracks and State Highway 1.

ZONE 3—3,501 SQUARE MILES

Beginning at the junction of State Highway 11 and State Highway 65; thence southeasterly along State Highway 65 to the junction with State Highway 1; thence westerly along State Highway 1 to the junction with State Highway 72; thence north along State Highway 72 to the junction with an un-numbered township road beginning in the northeast corner of Section 25, Township 155 North, Range 31 West; thence westerly along the said road for approximately seven (7) miles to the junction with SFR 95; thence westerly along SFR 95 and continuing west through the southern boundary of Sections 36 through 31, Township 155 North, Range 33 West, through Sections 36 through 31, Township 155 North, Range 34 West, through Sections 36 through 31, Township 155 North, Range 35 West, through Sections 36 and 35, Township 155 North, Range 36 West to the junction with State Highway 89, thence northwesterly along State Highway 89 to the junction with County Route 44; thence northerly along County Route 44 to the junction with County Route 704; thence northerly along County 704 to the junction with SFR 49; thence northerly along SFR 49 to the junction with SFR 57; thence easterly along SFR 57 to the junction with SFR 63; thence south along SFR 63 to the junction with SFR 70; thence easterly along SFR 70 to the junction with County Route 87; thence easterly along County Route 87 to the junction with County Route 1; thence south along County Route 1 to the junction with County Route 16; thence easterly along County Route 16 to the junction with State Highway 72; thence south on State Highway 72 to the junction with a gravel road (unnumbered County District Road) on the north side of Section 31, Township 158 North, Range 30 West; thence east on said District Road to the junction with SFR 62; thence easterly on SFR 62 to the junction with SFR 175; thence south on SFR 175 to the junction with County Route 101; thence easterly on County Route 101 to the junction with County Route 11; thence easterly on County Route 11 to the junction with State Highway 11; thence easterly on State Highway 11 to the junction with State Highway 65, the point of beginning.

ZONE 4—20,883 SQUARE MILES

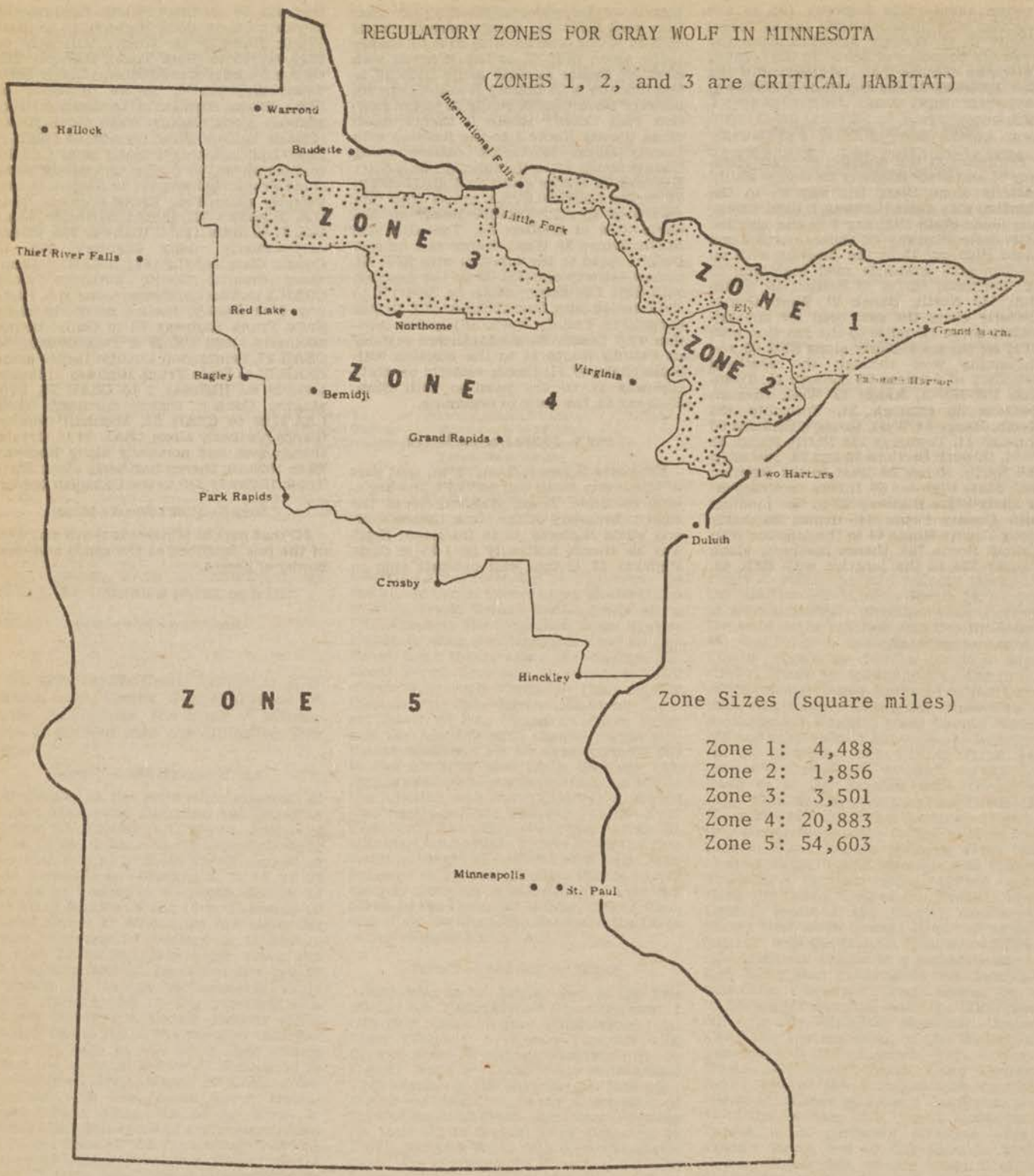
Excluding Zones 1, 2 and 3, all that part of Minnesota north and east of a line beginning on State Trunk Highway 48 at the eastern boundary of the state; thence westerly along Highway 48 to Interstate Highway 35; thence northerly on I-35 to State Highway 23, thence west one-half mile on Highway 23 to State Trunk Highway 18; thence westerly along Highway 18 to State Trunk Highway 65, thence northerly on Highway 65 to State Trunk Highway 210; thence westerly along Highway 210 to State Trunk Highway 6; thence northerly on State Trunk Highway 6 to Emily; thence westerly along County State Aid Highway (CSAH) 1, Crow Wing County, to CSAH 2, Cass County; thence westerly along CSAH 2 to Pine River; thence northwesterly along State Trunk Highway 371 to Backus; thence westerly along State Trunk Highway 87 to U.S. Highway 71; thence northerly along U.S. 71 to State Trunk Highway 200; thence northwesterly along Highway 200, to County State Aid Highway (CSAH) 2, Clearwater County; thence northerly along CSAH 2 to Shevlin; thence along U.S. Highway 2 to Bagley; thence northerly along State Trunk Highway 92 to Gully; thence northerly along CSAH 2, Polk County, to CSAH 27, Pennington County; thence along CSAH 27 to State Trunk Highway 1; thence easterly on Highway 1 to CSAH 28, Pennington County; thence northerly along CSAH 28 to CSAH 54, Marshall County, thence northerly along CSAH 54 to Grygla; thence west and northerly along Highway 89 to Roseau; thence northerly along State Truck Highway 310 to the Canadian border.

ZONE 5—54,603 SQUARE MILES

All that part of Minnesota south and west of the line described as the south and west border of Zone 4.

REGULATORY ZONES FOR GRAY WOLF IN MINNESOTA

(ZONES 1, 2, and 3 are CRITICAL HABITAT)



Zone Sizes (square miles)

Zone 1:	4,488
Zone 2:	1,856
Zone 3:	3,501
Zone 4:	20,883
Zone 5:	54,603

(2) *Prohibitions.* The following prohibitions apply to the gray wolf in Minnesota.

(i) *Taking.* Except as provided in this paragraph (d)(2)(i) of this section, no person may take a gray wolf in Minnesota.

(A) Any person may take a gray wolf in Minnesota in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen; or

(*2*) Dispose of a dead specimen; or

(*3*) Salvage a dead specimen which may be useful for scientific study.

(*4*) Furthermore, such designated employees or agents of the Service or the Minnesota Department of Natural Resources may take a gray wolf without a permit in Minnesota if such action is necessary to remove from zone 2, 3, 4, or 5, as delineated in paragraph (d)(3)(1) of this section, a gray wolf committing significant depredations on lawfully present domestic animals, but only if the taking is done in a humane manner.

(C) Any taking pursuant to paragraph (d)(2)(i) (A) and (B) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(D) Any employee or agent of the Service or the Minnesota Department of Natural Resources when operating under a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota to carry out scientific research or conservation programs.

(ii) *Unlawfully taken wolves.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, a gray wolf taken unlawfully in Minnesota.

(iii) *Import or export.* Except as may be authorized by a permit issued under authority of § 17.32, no person may import or export any Minnesota gray wolf.

(iv) *Commercial transactions.* Except as may be authorized by a permit issued under § 17.32, no person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any Minnesota gray wolf.

(3) *Permits.* All permits available under § 17.32 (General Permits—Threatened wildlife) are available with regard to the gray wolf in Minnesota. All the terms and provisions of § 17.32 apply to such permits issued under the authority of this paragraph (d)(3).

3. Section 17.95 is amended by adding the following Critical Habitat description after the Critical Habitat description for the Morro Bay kangaroo rat.

§ 17.95 Critical habitat—fish and wildlife.

(a) Mammals.

* * * * *

Gray Wolf

(*Canis lupus*)

Michigan. Isle Royale National Park.

Minnesota. Areas of land, water, and airspace in Beltrami, Cook, Itasca, Koochiching, Lake, Lake of the Woods, Roseau, and St. Louis Counties, with boundaries (4th and 5th Principal meridians) identical to those of zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1).

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 3, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-6192 Filed 3-8-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-08]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 410]

[Amdt. No. 1]

CITRUS CROP INSURANCE POLICY

Regulations for the 1977 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Florida citrus crop insurance regulations effective with the 1978 crop year to provide for insuring white grapefruit on a fresh fruit and on a juice basis, and changes the method of juice loss determination on those types of citrus on which the amount of loss is determined by the amount of juice lost. These amendments are being made because many producers of white grapefruit as fresh fruit have asked for insurance protection.

DATE: Written comments must be received by March 29, 1978, in order to be sure of consideration.

ADDRESS: Send comments to James D. Deal, manager, Federal Crop Insurance Corp., Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corp., U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corp. proposes to amend the Florida citrus regulations for the 1977 and succeeding crop years (42 FR 24712, May 16, 1977) effective with the 1978 crop year in order to make provisions for insuring white grapefruit on a fresh fruit basis. Currently, white grapefruit protection is provided only on a juice basis. Many growers producing white grapefruit as fresh fruit have asked the Corporation to provide insurance protection on white grapefruit grown as fresh fruit.

Another provision of this proposed amendment would change the method of juice loss determination for those types of citrus on which the amount of loss is deternmined by the amount of juice loss. The Corporation currently has the adjuster collect a sample of fruit and make a visual juice loss determination using a cut method. This method will be replaced by relating the juice marketing records of damaged fruit to the previous production history of the individual crop, or if such records are not available, to an established juice content provided on the actuarial table on file in the Corporation's office for the county. This method of juice loss determination has been determined as more accuarate than the field sample cutting method previously used by the Corporation in tests conducted by the Florida Department of Citrus. The research findings were published in the Florida Horticulture Society proceedings for 1977.

Each policyholder will be notified of the proposed changes and conversion letters explanining the proposed changes will also be sent. Notification of any changes in the Florida citrus crop insurance policy must be given to policyholders prior to April 15, 1978.

This proposed rule is published in the FEDERAL REGISTER as a notice of intended rulemaking in accordance with the procedure for notice and public participation allowing 20 days for the submission of written comments, views, or arguments on such proposed amendment. While the Corporation is aware that normally 30 days are allowed for such comment, there is insufficient time to follow this procedure fully and still permit the Corporation to make the necessary adjustments in its procedures prior to April 15, 1978, thus it is dertermined that such comments on the proposed rule will be accepted by the Corporation for a period of 20 days.

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), regarding the procedure for notice and public participation, the Federal Crop Insurance Corp. invites the public to submit written data, comments, or views for consideration in connection with the proposed amendment to James D. Deal, manager, Federal Crop Insurance Corp., Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions must be delivered or postmarked not later than March 29, 1978, to be sure of consideration. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

PROPOSED RULE

Accordingly, the Federal Crop Insurance Corporation proposes to amend the Florida citrus crop insurance regulations effective with the 1978 crop year by amending 7 CFR 410.6 in three instances to read as follows:

§ 410.6 The Policy.

* * * * *

1. *Meaning of terms.* * * *.

(p) "Types of citrus" means any of the following seven types of fruit: Type I—early and midseason oranges; type II—late oranges; type III—grapefruit, under which freeze damage will be adjusted on a juice basis for white grapefruit and on a fresh fruit basis for pink and red grapefruit; type IV—navel oranges, tangelos and tangerines; type V—murcott honey oranges (also known as honey tangerines) and temple oranges; type VI—lemons; and type VII—grapefruit, under which freeze damage will be adjusted on a fresh fruit basis for all grapefruit. Oranges commonly known as "sour oranges" and "Clementines" shall not be included in any of the insurable types of citrus.

(q) "Unit" means all insurable acreage in the county of any of the seven citrus types referred to in subsection (p) of this section located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

* * * * *

3. *Citrus insured.* (a) The citrus insured shall be any of the type(s) of citrus as defined in section 1(p) elected by the insured which is located on insurable acreage as shown on the actuarial map and in which the insured has a share on the date insurance attaches: *Provided*, That (1) if grapefruit is to be insured, only one type (III or VII) can be elected, (2) the citrus fruit can

be expected to mature each crop year in the normal maturity period for the variety, and (3) the trees have reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table.

. . . . .

9. * * *.

(f) Pink and red grapefruit of citrus type III and citrus of types IV, V, and VII which are seriously damaged by freeze as determined by a fresh fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the Florida Citrus Code and could not be marketed as fresh fruit within the prescribed tolerance for freeze damage (including adulteration) shall be considered unmarketable as fresh fruit and the amount of damage shall be as follows: (1) If 15 percent or less of the fruit in a sample shows serious freeze damage, the fruit shall be considered undamaged, or (2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit shall be considered 50 percent damaged, except that: (i) For tangerines of citrus type IV, damage in excess of 50 percent shall be the actual percent of damaged fruit. (ii) For other applicable varieties, if the Corporation determines that the juice loss in the fruit exceeds 50 percent, the amount so determined shall be considered the percent of damage.

(g) Any citrus of types I, II, VI, and white grapefruit of type III which is damaged by freeze, but may be processed by the canning or processing plants, shall be considered as marketable for juice. The percent of damage shall be determined by the Corporation by relating the juice content of the damaged fruit as determined by test house analysis to (1) the average juice content established by the Corporation based on acceptable records furnished by the insured showing the juice content of fruit produced on the unit for the 3 previous crop years, or (2) the juice content for that type fruit established on the actuarial table (if acceptable records are not furnished).

(j) Pink and red grapefruit of citrus type III and citrus of types IV, V, and VII which are unmarketable as fresh fruit due to serious damage from hail as defined in U.S. Standards for grades of Florida fruit shall be considered totally lost.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB circular A-107.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 78-6161 Filed 3-8-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-18-AD]

BEECH 55, 56, 58 and 95 SERIES AIRPLANES

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This Notice withdraws Docket No. 77-CE-18-AD published in the FEDERAL REGISTER on Thursday, September 8, 1977 (42 FR 45007, 45008). The Notice proposed to amend Federal Aviation Regulation Part 39 by adding a new Airworthiness Directive requiring repetitive inspection of trim tab systems on all Beech 55, 56, 58 and 95 series airplanes for excessive free play and correction if limits are exceeded. Comments received in response to the Notice and additional action taken by the manufacturer to make acceptable tab free play limits available to maintenance personnel in the field have resulted in the FAA concluding that the proposed rulemaking action is no longer required.

DATES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, MO. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Until 1976, the only trim tab free play information available to maintenance personnel in the field for the above noted Beech Series Airplanes was a general statement in FAA Advisory Circular 43.13-1A which recommends limiting trim tab free play to 2.5 percent of the tab chord length aft of its hinge line. This information is advisory only and is not as useful to field personnel as specific free play limits published by the manufacturer.

In approximately September, 1976 the manufacturer issued Beechcraft Service Instructions No. 0846-152, applicable to Beech 55, 56, 58, and 95 series airplanes, setting forth free play limits for trim tabs, along with procedures for measuring free play and the elimination of any excessive free play that is detected. The purpose of the NPRM was to make compliance with the procedures in the service instructions mandatory.

Comments submitted by the manufacturer in response to the NPRM show that acceptable trim tab free play limits have now been added to the maintenance manuals of affected airplanes and that it feels this is sufficient corrective action. This action makes these limits available to maintenance personnel in the field.

Two additional comments received in response to the NPRM support the manufacturer's position.

In light of the NPRM comments received and action taken by the manufacturer to add acceptable tab free play limits the the maintenance manuals of affected airplanes, we believe that satisfactory corrective action has been taken and issuance of an AD is no longer warranted.

The withdrawal of this Notice does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

THE WITHDRAWAL

For the reasons stated above, Notice of Proposed Rule Making, Docket No. 77-CE-18-AD published in the FEDERAL REGISTER on September 8, 1977 (42 FR 45007, 45008) is hereby withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 24, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-5999 Filed 3-8-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-AEA-9]

Proposed Designation of Transition Area: Chambersburg, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.